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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,375	12/12/2000	David C. Schwartz	DCS-TWOSIDEDSTICKYS	4564

7590 04/20/2004  
PEI  
P.O. Box 109  
Southboro, MA 01772

EXAMINER
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AHMAD, NASSER

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

3/4

# Office Action Summary

Application No.

09/735,375

Applicant(s)

SCHWARTZ, DAVID C.

Examiner

Nasser Ahmad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Rejections Maintained***

1. Claim 1 is rejected under 35 U.S.C.102(b) as being anticipated by Marchese for reasons of record in paper no.12, mailed on July 30, 2003.
2. Claims 1-3 are rejected under 35 U.S.C.1-3(a) as being unpatentable over Marchese for reasons of record in paper no. 12.

### ***Response to Arguments***

3. Applicant's arguments filed December 26, 2003 have been fully considered but they are not persuasive.

Applicant argues that Marchese fails to teach the claimed "label strip device as an integrally formed structural member only with three connected component portions".

This is not deemed to be convincing because said quoted phrase could not be located in the claim as alleged and cannot be read thereinto for the purpose of avoiding the applied prior art of record. Additionally, applicant should note that the claimed invention recites "including at least three panels", which also refers to the presence of more than three panels.

Further, applicant's claim is directed to a sticky loop and Marchese teaches a tape strip, which is well known in the adhesive art a sticky strip. Applicant's citation of Marchese, column-3 is noted. However, applicant's attention is drawn to other sections of Marchese wherein it is mentioned that "portions of selected length can be removed"

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(col-1, lines 34-35), "removal of particular portions of the tape found to be of optimum length" (col-1, lines 53-54). Thus, the portions to be used from Marchese's tape would vary with the length needed for specific applications.

In response to applicant's arguments about the obviousness rejection in view of Marchese, the above grounds of explanations apply a fortiori herein. Further, regarding the argument about the method of selection disclosed and the creation of wing portions to from a loop, applicant's attention is drawn to the fact that the claims are directed to a product claim and a method of making the product is not germane to the issue of patentability of the product. Hence, the method has not been given any patentable weight. Similarly, the claimed recitation of intended use phrases such as "to form a loop", etc. do not constitute positive limitations in the claims and, as such, have not been given patentable weight.

Examiner has looked at the copy of the instruction diagrams shown in page-6 of the amendment. However, as discussed and explained hereinabove, the claims are not limited to only three panels as shown and argued by the applicant, and that claims are directed to a sticky sheet that "can be formed into a loop" and to the loop itself.

Thus, in the absence of any evidence to the contrary, it remains the examiner's position that the claimed invention is anticipated or rendered obvious to one having ordinary skill in the art as discussed above.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

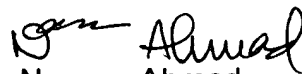
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Nasser Ahmad  
Primary Examiner  
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N. Ahmad.  
April 18, 2004.